

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

S.R., by and through his next friends M.R.,
N.R., and P.R.,

Plaintiff,

v.

EL CAMPO INDEPENDENT SCHOOL
DISTRICT, *et al.*

Defendants.

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CIVIL ACTION NO. 4:08-cv-03263

**JOINT MOTION FOR APPROVAL OF MINOR SETTLEMENT
AND, SUBJECT THERETO, AGREED MOTION TO DISMISS**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff S.R., by and through his next friends M.R., N.R., and P.R. and Defendants El Campo Independent School District, Mark Pool, Judy Waligura, Thomas Turner, Laketa Jo Dennis, Cecil Davis, Melissa Kainer Erwin, David Hodges, Ralph Novosad, Kim Chiles, Jackie Condra, Rebecca Crowell, Dan Hammock, Cindy Marek, Alfred Pavlu, Mary Jean Skow, Kate Teston, Angela Wenglar, Raymond Wilsher, and Jackie Joseph, and Guardian Ad Litem Carol S. Butner (the "Guardian") jointly file this Motion for the Court's approval of a minor settlement, and, subject to the Court's approval of the same, the parties submit their Agreed Motion to Dismiss, and respectfully show the Court the following:

MOTION FOR APPROVAL

A release, compromise and settlement agreement (the "Agreement") relating to the claims made the basis of the above-entitled lawsuit has been agreed to by all parties to this lawsuit. A copy of the Agreement will be submitted to the Court for an *in camera* review. The Agreement also affects a state lawsuit entitled *P.R., M.R., and N.R., individually and as next*

friend of S.R. v. Central Texas Autism Center and Cara Brown v. El Campo Independent School District, No. D-1-GN-08-003644, in the 126th Judicial District Court of Travis County, Austin, Texas.

On November 10, 2011, the parties and the Guardian presented the Agreement and Plaintiff's decision to utilize the Registry of the Court in Travis County for deposit of all settlement funds to Judge Rhonda Hurley in the Travis County District Court. Judge Hurley approved the Agreement, the method for handling the settlement funds, and ordered the dismissal of the state lawsuit. A true and correct copy of Judge Hurley's Order is attached as **Exhibit A**.

Pursuant to the terms of Judge Hurley's order, Plaintiff created an interest bearing trust for S.R. with the Registry of the Court in Travis County for receipt of the settlement funds. After those funds are deposited, they will remain in the Registry until they are released to S.R. upon his eighteenth birthday without further order from the Travis County District Court.

The Guardian has taken adequate time to collect information and consider input from the parties regarding the settlement. As indicated in her letter attached to this Motion as **Exhibit B**, the Guardian believes that the proposed settlement is fair and reasonable and is in the best interests of S.R., a minor child. Therefore, the Guardian and all other parties seek an Order from the Court approving the Agreement. The parties further request that the Court order any and all consideration paid under the terms of the Agreement to be deposited into an interest bearing account in the Registry of the Court in Travis County for the benefit of S.R., and that upon S.R.'s eighteenth birthday he be permitted to withdraw said funds from the Registry without further order from the Court.

AGREED MOTION TO DISMISS

The parties have reached a mutually agreeable compromise and settlement of the claims in this lawsuit, which includes an agreement to dismiss this case with prejudice. Accordingly, subject to the Court's approval of the Agreement, the parties seek an Order from the Court dismissing all claims and/or causes of action arising in connection with or related in any way whatsoever to the facts and allegations asserted in or underlying this lawsuit with prejudice to refiling the same.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the parties respectfully request that the Court approve the Agreement and upon such approval dismiss this lawsuit in its entirety. The parties further request such other and further relief to which they may show themselves justly entitled.

Respectfully submitted,

WINSTEAD PC

By: /s/ Linda M. Glover
Linda M. Glover
State Bar No. 24032229
Southern Dist. No. 34716
Zachary B. Allie
State Bar No. 24063997
Southern Dist. No. 1075735
1100 J.P. Morgan Chase Tower
600 Travis St.
Houston, Texas 77002
713-650-2731 (Telephone)
713-650-2400 (Facsimile)
lglover@winstead.com

ATTORNEYS FOR PLAINTIFF

WALSH, ANDERSON, BROWN, GALLEGOS AND
GREEN, P.C.

By: /s/ D. Craig Wood

D. Craig Wood
Attorney in Charge
Southern Dist. No. 979301
Texas Bar No. 21888700
Joe A. De Los Santos
Southern Dist. No. 24370
Texas Bar No. 24007100
100 NE Loop 410, Suite 900
San Antonio, Texas 78216
210-979-6633 (Telephone)
210-979-7024 (Facsimile)

ATTORNEYS FOR DEFENDANTS

EXHIBIT A

JUDGE RHONDA HURLEY'S ORDER
NOVEMBER 10, 2011

ORDERED, in consideration of the settlement achieved between the parties and in accordance therewith, that all claims and/or causes of action arising in connection with or related in any way whatsoever to the facts and allegations asserted in or underlying this lawsuit are

DISMISSED with prejudice to refiling the same, and costs of court are assessed against the parties by whom they were incurred.

SIGNED this 10 day of November, 2011.


PRESIDING JUDGE

EXHIBIT B

LETTER FROM CAROL S. BUTNER, GUARDIAN AD LITEM



CAROL S. BUTNER
ATTORNEY • MEDIATOR • ARBITRATOR

October 28, 2011

Mr. Zachary B. Allie
WINSTEAD
1100 JPMorgan Chase Tower
600 Travis Street
Houston, Texas 77002

RE: Civil Action No 4-08-03263; *S.R., By and Through His Next Friends M.R., N.R. and P.R.*; In the United States District Court for the Southern District of Texas; and Cause No. D-1-GN-08-003644; *P.R., et al v. Central Texas Autism Center, et al*; in the 129th Judicial District Court, Travis County, Texas

Dear Zach:

In connection with acting as guardian *ad litem* for S.R., a minor, in Cause No. D-1-GN-08-003644; *P.R., M.R., and N.R., Individually and As Next Friend of S.R., Plaintiffs, v. Central Texas Autism Center, Inc. And Cara Brown, Defendants/Third-Party Plaintiffs, v. El Campo Independent School District, Third-Party Defendant*; in the 126th Judicial District Court of Travis County, Texas (the State Lawsuit) and in Civil Action No. 4-08-CV-03263; *S.R., By And Through His Next Friends M.R., N.R., and P.R., Plaintiff, v. El Campo Independent School District, et al, Defendants*, in the United States District Court for the Southern District of Texas, Houston Division (the Federal Lawsuit), I have completed the pre-hearing work I outlined in my letter of August 17, 2011, and am ready to recommend approval of the settlement.

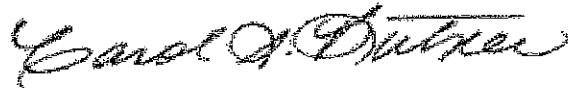
Yesterday, I met with Mike and Nancy Ryan to discuss distribution of the settlement funds and options for safeguarding the settlement funds pending S.R.'s 18th birthday. Mr. and Mrs. Ryan want all of the settlement monies to go to S.R. and to be deposited into the registry of the court for his benefit until he reaches the age of majority. I understand that all medical expenses have been paid and that all legal fees and expenses are being paid from resources outside the settlement funds.

October 28, 2011

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I believe that the parties to the State Lawsuit and to the Federal Lawsuit have reached a fair and reasonable settlement, and, equally as important, I believe that the settlement reached is in the best interest of the minor, S.R. I will recommend that the settlement be approved and that the litigation be concluded.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Carol S. Butner".

Carol S. Butner